

**From:** [johndavidbeatty@comcast.net](mailto:johndavidbeatty@comcast.net)  
**To:** [Jeff Thomas](#)  
**Cc:** [Steve Marshall](#); [Grace Manahan](#); [Barbara Beatty](#)  
**Subject:** Re: Critical Area Review 2 for Application File # CAO23-014  
**Date:** Saturday, September 30, 2023 5:24:05 PM

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Dear Mr. Thomas

We are writing to you as the Director of the Department of Community Planning and Development of Mercer Island, regarding the Public Notice of Application we received regarding the request for a: "Critical Area Review 2 for a new single-family residence on a vacant lot, located on a site containing geological hazardous areas and a watercourse." (File No. CAO23-014)

We are the residents of 5419 96<sup>th</sup> Avenue SE, Mercer Island. Our southside property line represents the northside property line of 5425 96<sup>th</sup> Avenue SE, Mercer Island. The residents and owners of this property (5425), Zhang Bin and Feng Qi, have submitted a Development Application to the Community Planning and Development Department to build a house and garage on the west side of their property.

From the application, we understand that the west portion of their property is a separate lot with the address 9433 SE 54<sup>th</sup> Street, Mercer Island 98040 (King County Assessor parcel #1438700145). Having reviewed the Project Documents provided on <https://mieplan.mercergov.org/public/CAO23-014/>, we strongly oppose approval of this application:

1. We request a meeting with you and your staff to clarify several items,
2. We recommend that Mercer Island Community Planning and Development staff personally visit the proposed site before making any decisions, and
3. We request participation in a public hearing regarding this application.

The Proposed Application(s) and Clear Description of Proposal states:

"Proposed to build a 2 -story with basement house on this site with 3-car garage located at the daylight basement. Expand the existing private road into the property and build a cul-de-sac. (the property share the cul-de-sac belongs to the same owner)"

The Project Narrative is described as follows:

"The project site is located at the end of a private drive off the SE 54<sup>th</sup> ST.

It is a sloped lot with a creek at the south side of the lot. There is an existing garage located in the creek buffer that will remain and no work proposed to that garage.

The project contains two portions of work:

1. Proposed to expand the end of the road and build a cul-de-sac between the project site and the 5425 96<sup>th</sup> Ave SE. These two parcels belong to the same owner.
2. Proposed to build a 2-story house with daylight basement. The 3-car garage will be located in the daylight basement."

The lot identified as 9433 SE 54<sup>th</sup> Street, Mercer Island 98040 (King County Assessor parcel #1438700145) has a downward slope from north to south starting from the south side of the 9425 SE 54<sup>th</sup> Street lot and ending just past a creek that passes through southside of the property. The proposed building area consists of two very steep slopes of 70° and 50° separated by a more gradual slope measuring up to 14 feet wide. This river flows through the 53<sup>rd</sup> Pl Open Space and then the Cay Hills Open Space. The river flows from west to east into Lake Washington. The Cay Hills and 53<sup>rd</sup> Pl Open Spaces are separated by East Mercer Way. The Cay Hills Open Space is on the west and

south of the lot. Neither the Cay Hills nor 53<sup>rd</sup> PI Open Spaces have any homes on them and both have similar steep slopes that embrace creeks that flow east into Lake Washington.

On the 9433 SE 54<sup>th</sup> Street lot, there is a dilapidated garage with a collapsed roof, broken windows, a fractured slab and no door. It appears that only fill has been used to support the garage. There is a 4'-5' stone wall and fill supporting the approach to the garage. It is not possible to easily ascertain the depth of the foundation and fill on the south side of the garage. In its current condition, this garage is not valuable for storage and would probably not support a vehicle. It is unused and appears unusable without being rebuilt replacing the entire foundation, walls and roof. (Pictures are attached of current garage: A- garage east side, B- garage east and north sides, C- garage east and south sides, D- garage interior through large east opening, E- view east through broken west-side garage windows.)

We have several questions and concerns as follows:

1. The proposal does not accurately represent the structure, foundation, or status of the current garage on the lot with the address 9433 SE 54<sup>th</sup> Street, Mercer Island 98040 (King County Assessor parcel #1438700145).
  
2. We were not requested by the applicants nor the experts doing the evaluations of the lot to provide access to our property for survey, geotechnical, wetland, fire service or other evaluations for this project. We are unaware that any of the other neighbors directly affected by this project (e.g., 9425 SE 54<sup>th</sup> Street) were contacted. It is assumed that the Cay Hills Open Space is property of the City of Mercer Island and do not know if requests were made to Mercer Island for access to perform a satisfactory assessment. The Wetlands assessment report states that routine wetland and ordinary high-water determinations could not be done because of not having "legal access" to the relevant adjacent properties.
  - a. Did the applicants or any of the entities providing reports request access to a relevant neighboring lot so that they could do full assessments for their reviews?
  - b. If requested, was legal access denied to any relevant neighboring lot?
  
3. The proposal has not provided the plan for the overall lot, the home design and location, the proposed access to the home by vehicle or pedestrian and the relationship of the current garage to the home proposed. Reading the cryptic descriptions in the proposal quoted above it is not clear if the proposed new house will be a 2 or 3 story structure and if the access to the new house will be from the east or the south. The proposed building footprint, and building orientation and location on the lot is not provided. This has compromised the Geo Tech and other evaluations and reports. Similarly, lack of this information has made it very difficult for us to understand the magnitude of the project and its potential impact on the neighborhood and challenges well-informed decision-making by the Mercer Island Department of Community Planning and Development.
  
4. The Geo Tech comments that the grading and building plans are not available. The Geo Tech report strongly recommends that a cut to grade approach would be required for stability, not the spot fill approach that appears to have been used for the current dilapidated garage. The report states that the excavation and grading will require professional geotechnical expertise and good coordination with the building contractor.

At this time there appear to be no plans for the proposed house, no building contractor identified to build the house, no geotechnical company identified to undertake the cut to grade and fill to support the structure, and no contract to guarantee that the foundation and structure built will support the cut bank. The only thing established by the geotechnical report is that the proposal as presented for the Critical Area Review 2 will require substantial heavy equipment to perform the cut to grade, extensive removal and disposal of the slope growth, rocks and soil debris, and an unknown amount of new appropriate fill for the foundation. Again, much more relevant information is required for formulating excellent reports and well-informed decision-making.

5. The fire service assessment notes that the access road proposed for the lot is too narrow (10' wide) to be able to take the heavy vehicles used in the Mercer Island fire services. Recology, the Mercer Island trash, recycle and yard/organic waste collection service, wanted an exemption for liability due to the weight of their trucks to use the access road for collection from the individual driveways of 5419 and 5425 96<sup>th</sup> Ave SE. After discussion, we, the owners of these two properties decided to bring the wheeled waste bins up to the area of the US Postal Service letter delivery boxes on SE 54<sup>th</sup> Street that services the 5 closest homes (5411, 5419 and 5425 96<sup>th</sup> Ave SE, and 9425 and 9428 SE 54<sup>th</sup> Street). We have a major concern that the access road proposed for servicing 9433 SE 54<sup>th</sup> Street will not be adequate and will have a high risk for damage from the heavy trucks required to service the excavation and building of the proposed structure vaguely described for 9433 SE 54<sup>th</sup> Street.

In 2013, we purchased 5419 96<sup>th</sup> Ave SE. We hired a contractor well-known to Mercer Island, Peter Davis Inc., established a plan, design and drawings for renovation of the home and addition of a 2-car attached garage so that we can "age in place". Permits were obtained from Mercer Island for the renovation and the addition of the garage, and we complied with all the Mercer Island review and inspection requirements. Some of these requirements were due to upgrade of the building code on Mercer Island since the original home construction in 1964 (e.g., replacing the intake water line pipe from the meter to the house for a larger diameter pipe).

The permit required a geo-survey for the new garage and driveway because of the steepness of the slope at the front of the home. This survey showed that the access road is west of our west property line. The documents provided on the Mercer Island website for this CAO23-014 application suggest that the access road for 5419 and 5425 96<sup>th</sup> Ave SE is an extension to the south off SE 54<sup>th</sup> Street at the level of the US Postal Service delivery letter boxes noted above. The project documents support the access road is primarily a narrow (10' wide) extension of SE 54<sup>th</sup> Street for the 2 houses to the south whose addresses are 5419 and 5425 96<sup>th</sup> Ave SE.

At this point, the Proposed Application and attached Reports do not address concerns regarding the access road for 5419 and 5425 96<sup>th</sup> Ave SE. This raises several questions that will require input from the Mercer Island Community Planning and Development Department and potentially a legal agreement between the parties involved:

- a. What is the vehicle weight capacity of the access road?

- b. Who owns the access road to 5419 and 5425 96<sup>th</sup> Ave SE?
  - c. Who is responsible for the maintenance of the access road to 5419 and 5425 96<sup>th</sup> Ave SE?
6. We noted in item 5 above, that we renovated the home at 5419 96<sup>th</sup> Ave SE following the purchase, obtaining building permits from Mercer Island and complying with the all the Mercer Island codes and inspections of the building during the renovations. Shortly after our purchase of the 5419 96<sup>th</sup> Ave SE property, Zhang Bin and Feng Qi purchased the house and property at 5425 96<sup>th</sup> Ave SE, also in 2013. They waited several years before undertaking renovations of the house. In both cases, the renovations were primarily within the house and did not involve excavation, heavy equipment, and transport of extensive amounts of rocks and soil to or from the properties. The vehicles and trucks used by the renovation personnel and for delivery of materials and removal of debris were almost all relatively small and light. There was no apparent damage to the access road for the 2 properties.

Before the completion of the renovation at the Zhang Bin and Feng Qi (5425 96<sup>th</sup> Ave SE) property, a Mercer Island building inspector apparently visited the renovation site. Mercer Island then posted an immediate stop order for the renovation because no building permit had been requested or issued by the city for the renovation. We had not been aware of the Building Permit situation and had not taken any action to initiate this inspection. However, this current application now raises a very relevant question:

Did the owners of 5425 96<sup>th</sup> Ave SE (Zhang Bin and Feng Qi) subsequently obtain a building permit from Mercer Island, was the work inspected and confirmed to have been completed to the appropriate Mercer Island standard and codes?

We welcome any questions or clarifications regarding these comments and anticipate that the Mercer Island Community Planning and Development Department will be able to provide information and answers to some of the questions asked. We would like to schedule a meeting with you at a time between October 12<sup>th</sup> and October 22<sup>nd</sup>, 2023. We would like to include Steve Marshall, a friend and former member (eight year duration) of the Mercer Island Planning Commission ([marshallsj@comcast.net](mailto:marshallsj@comcast.net)). He may be contacting you separately about this matter soon as my wife and I will be out of the state until October 11<sup>th</sup>, 2023.

Very Truly Yours,

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